

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

<p>CHARLES C. JONES,</p> <p>Plaintiff,</p> <p>v.</p> <p>UNITED STATES OF AMERICA, et al.,</p> <p>Defendants.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Case No. CIV-24-1328-R</p>
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ORDER

In a prior order, the Court adopted the Report and Recommendation of United States Magistrate Judge Chris M. Stephens recommending the denial of Plaintiff's Application to Proceed in Forma Pauperis. In that same order, the Court advised Plaintiff that this action would be dismissed if he did not pay the filing fee within 30 days. After Plaintiff failed to pay the full filing fee by the deadline, the Court entered an order and judgment dismissing this action without prejudice. Plaintiff, proceeding pro se, has now filed a Motion to Vacate Judgment [Doc. No. 20].

Because Plaintiff's motion was filed within 28 days of the entry of judgment, the Court construes it as a motion to alter or amend a judgment pursuant to Federal Rule of Civil Procedure 59(e). *See Hayes Family Tr. v. State Farm Fire & Cas. Co.*, 845 F.3d 997, 1004 (10th Cir. 2017) ("No matter how styled, a motion will be deemed a Rule 59(e) motion if it is served within the specified time period and seeks relief appropriate to Rule 59(e) by questioning the correctness of the underlying judgment."). "Rule 59(e) relief is available in limited circumstances, including '(1) an intervening change in the controlling law, (2) when new evidence previously was unavailable, and (3) the need to correct clear

error or prevent manifest injustice.”” *Id.* (brackets omitted) (quoting *Servants of the Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000)).

These grounds are not present here. Plaintiff argues that the failure to pay the filing fee was not his fault because he made a request for a partial payment of the filing fee but the check was cancelled and returned. The docket reflects that a check from Plaintiff for \$205.00 was received on June 3, 2025 and returned because the check was not properly made out to the Clerk of Court. The order and judgment dismissing this case was not entered until July 28, 2025, over a month after the check was returned. Thus, Plaintiff had ample time to correct the error and pay the filing fee or request an extension of time in which to do so. Plaintiff was responsible for paying filing fee and he has not shown that he made a complete and proper request for payment of the full filing fee and the facility prevented him from making the payment. Additionally, the Court notes that the action was dismissed without prejudice to refiling a new action.

Accordingly, Plaintiff’s Motion to Vacate is DENIED.

IT IS SO ORDERED this 19th day of August, 2025



DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE